

VZCZCXRO1631
PP RUEHCHI RUEHDT RUEHHM RUEHNN
DE RUEHBK #3588/01 3440717
ZNR UUUUU ZZH
P 090717Z DEC 08
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 5325
RUEHC/DEPT OF LABOR WASHDC PRIORITY
INFO RUEHCHI/AMCONSUL CHIANG MAI 5954
RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS SECTION 01 OF 04 BANGKOK 003588

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SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [ELAB](#) [PHUM](#) [KTIP](#) [TH](#)

SUBJECT: THAILAND'S NEW TIP LAW: NOTABLE PROGRESS AFTER SIX MONTHS

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Bangkok 2836 E) 07 Bangkok 5990

11. (SBU) Summary: In the six months since its new Anti-Trafficking in Persons (TIP) Act came into force, the Royal Thai Government (RTG) has taken substantial steps to implement the law. The RTG is developing subordinate regulations to make the law's provisions operational, and has identified \$1.7 million to endow a new anti-TIP fund available to government and non-governmental organizations. The RTG is establishing exclusively for male TIP victims four new shelters, one of which is already in use. With the help of members of civil society, relevant RTG ministries have published guidelines to improve the victim identification process as well as TIP operations specifically targeting labor trafficking cases. Thai law enforcement and civilian officials have trained thousands of individuals on the new TIP law, including police officers, prosecutors, social workers, and members of civil society. Still, additional work needs to be done before all aspects of the new law are fully implemented, including improving the ability of TIP victims to work while their cases proceed through the legal system. Nonetheless, leading NGOs in the field applaud the RTG's efforts thus far and hope they will provide improved operational results, not only in the areas of prevention and protection, but also in the area of criminal prosecution. End summary.

12. (SBU) Comment: Given the broad and complicated scope of the new law, the RTG seems to be doing what it needs to be doing to this point, especially in the area of prosecution: putting a new tool in the hands of the law enforcement community so that it can increase criminal punishments. We also view the RTG's decision to keep families of male TIP victims unified in a shelter to be a promising sign of the new law's positive implementation (especially its provisions on men and forced labor) and of improved treatment of victims. We are still waiting for concrete results, particularly with regard to prosecutions, but overall the RTG effort to implement the new law seems to be on track. End Comment.

13. (SBU) Thailand's new Anti-Trafficking in Persons (TIP) Act came into effect on June 5, 2008. The comprehensive law criminally prohibits all forms of TIP, including forced child labor, other forms of forced labor, and -- for the first time -- the trafficking of males (ref a). The law provides the basis for an improved anti-TIP architecture within the Royal Thai Government (RTG) and new tools to combat trafficking. In the six months since it came into force, the RTG has taken substantial steps to see that the TIP law is implemented and effectively put to use by officials at the national, regional, and local level. The law's implementation remains an on-going process that will require the dedication of financial resources, continued coordination between multiple parts

of the RTG and with civil society, and the focus of policy makers within the government.

14. (U) The following is a snap-shot of RTG anti-TIP efforts to implement the new TIP law since it came into force on June 5. It includes specific activities to make certain aspects of the law operational as well as to promote its usage by governmental and non-governmental actors within Thailand. It also includes related activities that began after the law was enacted in December 2007 and that continue today. Activities are organized thematically, including operational activities (administrative and other requirements for the law to be applied in practice), prevention, protection, and prosecution. Also provided are general impressions of the RTG's efforts and specific areas on which increased attention appears to be needed.

Operational Activities

15. (SBU) The new TIP law calls for the establishment of two national committees to focus ministerial-level political decision-making with regard to anti-TIP efforts: an Anti-Trafficking in Persons Committee (ATP) chaired by the Prime Minister and a Coordinating and Monitoring of Anti-Trafficking in Persons Committee (CMP) chaired by a Deputy Prime Minister. The law also elevates the responsibility for coordinating the RTG's anti-TIP efforts to the office of the Permanent Secretary for Social Development and Human Security within the Ministry of Social Development and Human Security (MSDHS) (the anti-TIP coordinating responsibility previously fell to an office one level lower). This office, currently led by the Deputy Permanent Secretary, is also assigned to be the secretariat of the two national committees. According to a MSDHS official December 2, the RTG has set-up the committees in question but, due to Thailand's ongoing political instability (ref b), the committees' first meetings have been delayed. The MSDHS officials stated they expect the first meetings to be held in the

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first quarter of 2009.

16. (U) The MSDHS has also created a CMP sub-committee to develop subordinate regulations to the new TIP Law, essential to its effective implementation. The sub-committee consists of government officials from relevant agencies, academics, and representatives from civil society. The six implementing regulations developed thus far aim to:

- establish rules regarding the protection and usage of documents or information related to TIP offenses,
- establish norms on the registration of non-governmental organizations (NGOs) and the assistance they provide during anti-TIP operations,
- establish, and manage the operation of, an Anti-Trafficking in Persons Fund to finance anti-TIP programs of the RTG, provincial governments, police, NGOs, and others.
- improve the provision of temporary protection for trafficking victims,
- establish rules governing TIP victim assistance, repatriation, and compensation, and
- define "competent official" to determine which official has authority to perform certain duties under the law.

The first of the six regulations has already come into effect, while the second and third are expected to be submitted to the CMP for approval in February 2009. The fourth and fifth are being reviewed by the sub-committee. The sixth has been approved by the RTG cabinet and awaits review by the Council of State. (Note: Depending on under which section of the TIP law they fall, the different implementing regulations require approval at different levels of the RTG before coming into force. End Note).

Prevention

17. (U) To raise awareness on TIP issues, the RTG declared June 5 as National Anti-Human Trafficking Day. MSDHS organized "public dialogues" in seven provinces throughout Thailand to raise awareness within the general public. It also sponsored a television advertisement to raise awareness on the various forms of human trafficking (e.g., forced labor (including child labor), forced

begging, forced prostitution, etc). The ministry targeted additional anti-TIP public awareness campaigns in both transport stations and high risk areas (Bangkok's main train station, various bus and shuttle bus terminals, and the tourist district in the city of Pattaya.

Protection

18. (SBU) To protect male victims of trafficking, able to be classified as such since the new law came into force, the RTG is establishing four new shelters exclusively for men. One of them, in Thailand's central region province of Pathumthani, began operations in October 2008. The other three shelters are being set up in Chiang Rai (Northern region), Songkla (Southern region), and Ranong (Eastern region) during the 2009 fiscal year. MSDHS officials report that two families of male victims of trafficking are currently residing in the Pathumthani shelter, instead of being forcibly separated from the victims while they are within the RTG's care (Note: Prior to the new TIP law, the forced separation of families was common place since women and children victims of trafficking were considered differently under the law. End note.)End Note.)

19. (U) The RTG has developed "Guidelines on Trafficked Victim Identification" for use by police officers, immigration officers, social workers and members of civil society to better identify potential trafficked victims under the new law. The guidelines, in the form of a questionnaire to be used while interviewing a potential victim during or after an anti-TIP operation, provide a framework for interviewing officials to have a clearer understanding of what defines a TIP victim. The guidelines state that a person can be a victim of trafficking even if he/she originally participated voluntarily in the activity in question and regardless of one's immigration or worker registration status. They also explain that debt bondage is considered a type of human trafficking, and instruct that various types of supporting evidence should be considered when identifying trafficked victims (i.e., evidence of physical abuse or psychological trauma, etc.).

110. (U) The Ministry of Labor (MOL), working with other concerned ministries, developed "Operational Guidelines for Labor Trafficking," formally agreed upon in April 2008. The guidelines were established to improve coordination among members of multi-disciplinary teams, both government and non-government officials, during labor trafficking operations (i.e., rescue and protection). MOL contacts report that trainings on these guidelines are being planned for officials within the ministry. In addition,

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groupings of provincial governments in Thailand's central region signed two Memoranda of Understanding (MOUs) regarding the coordination of procedures during regional anti-TIP activities, including rescues and protection (the MOU covering the lower central region was signed in May; that of the upper central region in July). With these two new regional MOUs, Thailand now has provincial-level anti-TIP MOUs covering all 76 provinces (those for the northeast and east were signed in 2006 and those for the north and south in 2007).

Prosecution

111. (SBU) To improve the prosecution of TIP cases, the RTG is conducting numerous training activities to explain the new anti-TIP Act to law enforcement officers, prosecutors, civilian government officials, and NGO counterparts. As an example, the Royal Thai Police and MSDHS co-conducted for police officers numerous one-day trainings that focused on the Anti-TIP law and victim identification process. MSDHS reports that 2,500 police received training in FY 2008 and that an additional 2,500 will be reached in FY 2009. The Center against International Human Trafficking (CAHT) of the Office of Attorney General (OAG) has conducted eight training sessions on the Anti-TIP law for public prosecutors in eight of its ten geographic districts. The OAG expects to conduct an additional two trainings for the other districts in FY 2009. In addition, the head of the CAHT has stated that one hundred sixty prosecutors have voluntarily signed up for a "Prosecutor Network to Combat Human

Trafficking," promoted during this training. (Note: While the Department's 2008 TIP report states that CAHT has eight full-time attorneys coordinating the prosecution of Thailand's trafficking cases, in actuality, CAHT only has part-time staff who are dedicated to training efforts. End Note).

¶12. (U) To support law enforcement work, MSDHS, in collaboration with NGOs and public prosecutors, continues to train law enforcement officers, prosecutors, civilian government officials, and NGO counterparts on the new TIP law and the multi-disciplinary team approach to TIP prevention, protection, and prosecution. According to MSDHS, approximately 80 people have been trained using a curriculum updated since the new law came into force. These training sessions, some of which Embassy officials have attended, generally last three to five days with the goal of developing personal networks among attendees to improve their coordination efforts. From 2006 to the new law's coming into force in June, MSDHS trained an additional 706 individuals on victim protection and assistance.

¶13. (SBU) Ref c reported on a TIP case in Payao in northern Thailand, likely the first arrest in a TIP case since the new Anti-TIP Act came into force. According to the Chiang Mai-based NGO Anti-Trafficking Coordination Unit - Northern Thailand (TRAFCORD), a pretrial hearing was conducted in the case on October 17 and 18. Criminal investigations or court proceedings continue in other TIP cases, including those that pre-date the new TIP law's coming into force, such as the Anoma case (ref d) and Ranya Paew case (ref e). However, according to the OAG, the new law is not retroactive. As such, prosecutors can only pursue criminal prosecutions in these cases using other relevant sections of Thai law.

Work Remains Undone But Garner Some Praise

¶14. (SBU) RTG officials understand their work remains unfinished, such as with regard to the new anti-TIP fund. An official in the office of the Permanent Secretary of MSDHS stated December 2 that the fund, for which 60 million baht (approximately USD 1.8 million) has been identified, should be up by March 2009 and available to finance anti-TIP activities as called for under the law. MSDHS also expects that by February 2009 the RTG will complete an evaluation of the first phase of its National Plan of Action to combat human trafficking (2006-2008), which shall be used to adjust the RTG's efforts as needed. With regard to prosecution, an OAG official stated the institution plans to develop a manual on human trafficking for use as a guideline for provincial-level public prosecutors. In addition, MSDHS counterparts believe additional subordinate regulations need to be drafted and pushed through the approval process. They note that Thailand's political turmoil, with frequent changes of government and corresponding delays to policy-making, has slowed this process.

¶15. (SBU) One additional area that appears to require particular attention is the provision of the right to work for trafficking victims. According to the new law, victims of TIP crimes are eligible to work while their case proceeds through the courts. While some victims are engaged in income generating activities within the government shelters in which they reside, the RTG has not yet developed a system through which victims (many of whom are

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undocumented migrants) can work outside the shelters. TIP experts in NGOs have suggested the first step toward making this possible, should the RTG intend to do so, would be the provision of identification cards. Victims could use these cards to leave the shelters unsupervised and do so without being deported, should they have entered Thailand illegally. Setting up such procedures would be complicated and require MOL, MSDHS, Thai Immigration, and others to develop regulations regarding forms of identification, responsibility for finding jobs for victims, and accountability for the safety and security of victims.

¶16. (SBU) Nonetheless, contacts from both law enforcement and civil society have lauded the coming into force of the new anti-TIP Law. Some NGO counterparts, from groups such as Global Alliance Against Traffic Women (GAATW) and the Coalition to Fight Against Child

Exploitation (FACE), are particularly pleased with the consultative approach the RTG used to develop the law and continues to use in developing its subordinate regulations, related guidelines, and MOUs. Others, like the Center for the Protection of Child Rights (CPCR) and TRAFCORD are working side by side with the RTG as it trains both government and non-government officials on the new law. Many (to include the above), while realizing that more needs to be done, applaud the RTG efforts so far. They also hope that these efforts will provide improved operational results, not only in the areas of prevention and protection, but also in the area of criminal prosecution.